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IN THE HIGH COURT OF KARNATAKA AT BANGALORE
DATED THIS THE 29TH DAY OF MAY 1998

Before
THE HON'BLE MR.JUSTICE HARI NATH TILHARI
C.R.P. No.2521/1993

Between:

P.S.Hatte, major,
Asst.Master, GH Scholl,
Kurni, Tq.Hukeri,
Dist.Belgaum.

.. PETITIONER

(By Sri.Shantha Kumar, Adv.)

And:

1. The Board of Management,
Bharamshri Balayya Swamy Vidya
Vardhaka Sangh, Kurni,
rep. by its Chairman.
2. The Dy.Director of Public
Instruction, Belgaum District,
Belgaum.
3. The Zilla Panchayat, Belgaum Dist.
Belgaum, Rep. by its Chief Secretary,
4. Sri.Arjun Ghatigeppa Wagh, major,
Head Master, GM School, Kurni,
Tq.Hukeri, Dist.Belgaum.

.. RESPONDENTS

This C.R.P. is filed u/s.115 of CPC against
the order dt.20-7-93 passed in KPEI.A No.14/91 on
the file of the Karnataka Appellate Tribunal,
Belgaum, allowing the appeal filed u/s.9 of the
KPEI (D &C) Act.

This C.R.P. coming on for hearing this day,
the Court made the following:-

Hari Nath Tilhari...2.

ORDER

Heard Sri. Shanthakumar holding brief for Sri. H. S. Jois, learned counsel for the petitioner and Sri. V. M. Sheelavanth holding brief for Sri. Ravi. B. Naik, learned counsel for respondent-4.

2. This is a revision under Section 115 of Code of Civil Procedure from the order of the Educational Appellate Tribunal passed in appeal No. 14/91 on 20-7-1993 whereby the learned Educational Appellate Tribunal has allowed the appeal and had quashed/set aside the order dated 29-8-1991 passed by the management.

3. A preliminary objection has been raised to the effect Revision u/s 115 CPC lies against the order of the Court (Civil Court) subordinate to High Court and as the order impugned has been passed by a Tribunal (Educational Appellate Tribunal) it is not maintainable and should be dismissed. This preliminary objection raised by respondents Counsel has been ^{hotly} contested by Sri. Shanthakumar learned counsel for the revision's/applicant.

Harinath J. Kumar

4. The revision under section 115 of Code of Civil Procedure is maintainable from the order of court subordinate to High Court. Section 3 of Code of Civil Procedure provides that,

" For the purposes of this Code, the District Court is subordinate to the High Court, and every Civil Court of a grade inferior to that of a District Court and every Court of Small Causes is subordinate to the High Court and District Court."

Keeping this in view along with section 115 CPC and section 8 in particular of Act No.10 of 1975 i.e., the Karnataka Private Educational Institutions (Disciplinary and Control) Act, 1975, this Court today has taken the view that revision from the order of Tribunal is not maintainable as the Educational Appellate Tribunal cannot be said to be a court for the purpose of section 115 as per the legislative intent revealed by Section 8 of Act of 75

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itself as well as by the use of expression, "shall function as Educational Appellate Tribunal on the district", in Section 10(2) proviso coupled with section 11 of the Act. The decision in which I have taken this view is in the THE HUNGUND TALUKA BANJARA VIDYAVARDHAKA SANGHA v. RACHAPPA CHANAMALLEAPPA CHITTAWADASI AND ANOTHER Civil Revision Petition No.2521 of 1993 decided on 29.5.1998. This Court ^{has} clearly laid it down that the Educational Appellate Tribunal cannot be considered to be the Civil Court. In this view of the above, the revision is not maintainable.

In view of the above, this Civil revision petition is also not maintainable on this very ground and is held to be not maintainable and as such the Revision is dismissed. It is kept open to the revision applicant to avail any remedy as he may be advised by the learned counsel.

Sd/-
JUDGE

bss/-29598

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